REMARKS/ARGUMENTS

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith, which place the application into condition for allowance. The present amendment is being made to facilitate prosecution of the application.

I. STATUS OF THE CLAIMS AND FORMAL MATTERS

Claims 2-5, 8-30, and 32 are currently pending. Claims 8, 17, 23, and 32 are independent and are hereby amended. No new matter has been introduced. Support for this amendment is provided throughout the Specification as originally filed.

Changes to the claims are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103, or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicants are entitled.

II. REJECTIONS UNDER 35 U.S.C. §103

Claims 8, 3, 4, 9-13, 17, 19, 23-27 were rejected under 35 U.S.C. §103 as allegedly unpatentable over U.S. Pat. No. 7,013,477 to Nakamura et al. ("Nakamura") in view of U.S. Pat. No. 6,973,669 to Daniels in view of U.S Patent No. 5,027,400 to Baji et al. ("Baji") in view of U.S. Pat. App. Publ. No. 2002/0166120 of Boylan III et al. ("Boylan");

Claims 2 and 18 were rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura, Daniels, Baji, Boylan and further in view of U.S. Patent Application Publication No. 2002/0019769 of Barritz et al. (hereinafter, merely "Barritz");

Claims 5, 14, 20, and 28 were rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura, Daniels, Baji, Boylan and further in view of U.S. Patent Application Publication No. 2003/0192060 of Levy;

Claims 15, 16, 21, 22, 29, and 30 were rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura, Daniels, Baji, Boylan and further in view of U.S. Patent No. 6,285,818 to Suito et al. (hereinafter, merely "Suito"); and

Claim 32 was rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura, Baji, and Boylan;

Claims 33-35 were rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura, Daniels, Baji, and Boylan and further in view of U.S. Pat. App. Publ. No. 2005/0108095 of Perlmutter;.and

Claim 36 was rejected under 35 U.S.C. §103 as allegedly unpatentable over Nakamura, Baji, Boylan and Perlmutter.

Applicants respectfully traverse these rejections.

Claim 8 is representative and recites, *inter alia*:

> ". . . said information related to each of a plurality of commercial broadcast information being one selected from the group consisting of (a still image, text, and graphic) each displayed in a line at an upper portion of the display according to the second sequence, the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, **the different still image, text, or graphic indicating that the selected commercial broadcast information has been already reproduced**" (emphases added)

A still image, text, or graphic representing the commercial (CM) is represented in a line at the top of the display. After the CM is reproduced, the still image, text, or graphic is replaced with a different still image text or graphic.

The different still image, text, or graphic that replaces the existing still image, text, or graphic, is a display that indicates the selected CM has been reproduced. As described in the as-filed specification:

> The designated commercial broadcast is read from the storage unit 3 (storage unit 13 in FIG. 2) and reproduced. Also, **after the reproduction of this commercial broadcast, an image, text, or graphic indicating that this commercial broadcast has been already reproduced is displayed on the display screen of the reproduction unit**.

Publ. App. par. [0101].

None of the cited references describe the claim, taken as a whole, to display commercial messages for selection and, after reproduction of the commercial message, to replace the still image, text, or graphic with another still image, text, or graphic that represents that the commercial message has been reproduced.

- **Two arguments are presented:**

A. Perlmutter does not disclose commercial broadcast information being replaces with a "**different still image, text, or graphic indicating that the selected commercial broadcast information has been already reproduced**

The Office Action, at page 9, par. 2, concedes "Nakamura et al. in view of Daniels in view of Baji et al. in view of Boylan, III et al. fail to disclose" the above-recited element of claim 8 and points to Perlmutter stating:

> "Perlmutter discloses an apparatus wherein the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information (paragraph [0039] - once the triggering condition has been met (the commercial has been viewed) *the commercial is then replaced by another commercial on the display*)." (emphasis added).

However, Perlmutter at pars. [0038]-[0039] describes an Advertisement Server that "keep[s] track of which advertisements have been played and store 630 a link to the advertisements." Perlmutter then only describes, in par. [0039], displaying *another* advertisement after a specified time interval. The Office Action appears to broaden this disclosure to any "triggering condition."

Regardless, of the overbroad interpretation, Perlmutter at most describes replacing a first commercial with another commercial, not replacing a commercial with a still image, text, or graphic that the first commercial has been reproduced.

In contrast, claim 8 recites, "the information related to the selected one of the plurality of commercial broadcast information is replaced with a different still image, text, or graphic after the reproduction of the selected commercial broadcast information, the different still image, text, or graphic indicating that the selected commercial broadcast information has been already reproduced." That is, the first still image, text, or graphic is replaced with a still image, text, or graphic that indicates that the commercial has been reproduced.

B. THE RELIED UPON PORTION OF PERLMUTTER IS NOT PRIOR ART TO THE PRESENT APPLICATION

Perlmutter is disqualified as prior art to the present application because the relied upon portion of Perlmutter has a priority date that is AFTER the filing date of the present application.

The Office Action points to Perlmutter, U.S. Pat. App. Publ. 2005/00108095 ('095 App.) as disclosing the above-recited element of claim 8. However, Perlmutter has a U.S. Filing date of Oct. 13, 2004, which is AFTER the present application's filing date of Feb. 21, 2002. As such, Perlmutter is not prior art to the present application.

Applicants recognize that the Perlmutter '095 App. is a continuation-in-part of, and claims priority to, application no. 09/634,219, filed Aug. 9, 2000 ('219 App.). However, the disclosure relied upon by the Office Action in the Perlmutter '095 App is not disclosed in the parent '219 App. As such, the relied upon portion of Perlmutter in the Office Action cannot claim a priority date earlier than the filing date of Oct. 13, 2004, which is AFTER the filing date of the present application.

III. DEPENDENT CLAIMS

The other claims are dependent from one of the claims discussed above and are therefore believed patentable for at least the same reasons. Because each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

CONCLUSION

Claims 2-5, 8-30, and 32-36 are in condition for allowance. In the event the Examiner disagrees with any of statements appearing above with respect to the disclosure in the cited reference, or references, it is respectfully requested that the Examiner specifically indicate those portions of the reference, or references, providing the basis for a contrary view.

Please charge any additional fees that may be needed, and credit any overpayment, to our Deposit Account No. 50-0320.

In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicants respectfully request early passage to issue of the present application.

Respectfully submitted,

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